

LEGAL NOTICE TO SHERIFFS AND ALL LAW ENFORCEMENT

Right of a citizen to drive for travel on a public street with freedom from police interference.

The United States Supreme Court in Wash. State Dep't of Licensing v. Cougar Den, Inc., 139 S. Ct. 1000 Supreme Court of the United States October 30, 2018, argued; **March 19, (2019)** Decided.

Holding: The Supreme Court, Justice Breyer, joined by Justice SOTOMAYOR and Justice KAGAN, Justice GORSUCH, & Justice GINSBURG joins, concurring in the judgment held: that: Washington's fuel tax burdened the treaty right of the Yakama Nation to travel upon all public highways in common with citizens of the United States, the Washington tax, as applied to its activities, is pre-empted by an 1855 treaty between the United States and the Yakama Nation that, among other things, reserves the Yakamas' "right, in common with citizens of the United States, to travel upon all public highways," 12 Stat. 953.

They Recognized a reservation of certain rights in treaty. Arts. III-V, 12 Stat. 952-953. **Those reserved rights include "the right, in common with citizens of the United States, to travel upon all public highways," "the right of taking fish at all usual and accustomed places, in common with citizens of the Territory," and other rights, such as the right to hunt, to gather roots and berries, and to pasture cattle on open and unclaimed land.** Art. III, id., at 953.

To summarize, the holding rests upon three propositions: First, a state law that burdens a treaty-protected right is pre-empted by the treaty. The plurality simply assumes that the right to travel with goods is an additional, substantive right when it reasons that the fuel tax is preempted because it taxes an "integral feature" of travel with goods. Ante, at 203 L. Ed. 2d, at 315. The concurrence makes the same assumption when it compares the fuel tax to a tax on "'possession' of fish" Ante, at 203 L. Ed. 2d, at 321. That tax would be preempted because "taking possession of fish" is just another way of describing the act of fishing.

Instead, they suggest that the Yakamas understood the treaty's right-to-travel provision to provide them "with the **right to travel on all public highways without being subject to any licensing and permitting fees related to the exercise of that right** while engaged in the transportation of tribal goods. The Yakama treaty is like the American Peoples Constitution. Remember they share **"the right, in common with citizens of the United States, to travel upon all public highways without being subject to any licensing and permitting fees related to the exercise of that right** found at **16A Am. Jur. 2d Constitutional Law § 624.** "Rights in public vehicles and places for purposes of liberty interest of Due Process Clause" 2021 Update. **Which reads:**

Under the constitutional guarantee of liberty one may, under normal conditions, move at his or her own inclination along the public highways or in public places, and while conducting himself or herself in an orderly and decent manner, neither interfering with nor disturbing another's rights, one will be protected, not only in his or her person, but in his or her safe conduct.¹ **For example, the right of a citizen to drive on a public street with freedom from police interference, unless he or she is engaged in suspicious conduct associated in some manner with criminality, is a fundamental constitutional right.**² However, the liberty of each individual in a **public vehicle** or public place is subject to reasonable limitations in relation to the rights of

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others.³ **16A Am. Jur. 2d Constitutional Law § 624.** “Rights in public vehicles and places for purposes of liberty interest of Due Process Clause” 2021 Update.

A “public vehicle” is **defined** as “[a] **vehicle** seeking **employment from the general public**.” Webster’s New International Dictionary 2005 (2d ed. 1956). **A “public vehicle” is a for hire vehicle. The use of highways for the purpose of transporting persons or property for hire, by the ordinary means, is incidental to and consistent with the primary purpose of their establishment, and is therefore a proper use, in the absence of any restrictive regulation.**¹ Such use is not, however, one which may be exercised as of right, but **is a special or permissive use** ² [a privilege] ... **7A Am. Jur. 2d Automobiles § 13 American Jurisprudence, Vehicles engaged in transportation for hire.** February 2021 Update. **The State claims driving is a special or permissive use a privilege.**

The Power of state to license or tax, Motor vehicle registration is a traditional government function.¹ Because the operation of a motor vehicle is a **privilege**, ² the legislature of each state may, in the exercise of the police power, enact reasonable regulations requiring the licensing or registration of motor vehicles,³ including the private **motor carriers** of property,⁴ and public or common ⁵ carriers of persons or property for hire. **7A Am. Jur. 2d Automobiles § 60 Power of state to license or tax, generally.** Licensing or registration enactments frequently are made applicable to motor carriers—that is, to vehicles operated for compensation or for hire. **7A Am. Jur. 2d Automobiles § 85 Motor carriers.** Because, the use of highways for the purpose of transporting persons or property for hire, is a special or permissive use, a privilege. **7A Am. Jur. 2d Automobiles § 13 Vehicles engaged in transportation for hire.**

However, to drive one’s own car to travel about, isn’t the same as driving **public vehicles for hire.** **Ind. Code § 9-18-2-22 Additional fees, licenses, permits, and numbers prohibited; exception Effective: July 1, 2016 Sec. 22.** A person that: (1) owns a motor vehicle, except a person that owns a truck or motor vehicle used in transporting passengers or property for hire; and (2) has obtained a certificate of registration under this title; is not required to pay another license fee, obtain any other license or permit to use or operate the motor vehicle on the highways, or display upon the motor vehicle any other number other than the number issued by the bureau.

(2016) Ind. Code § 9-18-2-22 exempts those traveling and not for hire; because, a state may not impose a charge for the enjoyment of a right granted by the United States Constitution. 51 Am. Jur. 2d Licenses and Permits § 7 Taxing power of state Constitutional Law May 2021 Update.

The public are entitled to a free passage along the highway.¹ The existence of a public highway creates a public easement of travel, which permits the **general traveling public to use the highway at will.**² **39 Am. Jur. 2d Highways, Streets, and Bridges § 145 Right of all to use Constitutional Law May 2021 Update.**

The public right to the use of a street for travel is absolute and paramount,¹ and greater than that of an individual to occupy it for other purposes.² Streets and highways are primarily for the benefit of the traveling public, and only incidentally for the benefit of property owners along them.³ **39 Am. Jur. 2d Highways, Streets, and Bridges § 147 Superior rights of public. Constitutional Law May 2021 Update.** It is pretty clear at this point **Driving is a regulated Occupation For Hire.**

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In contrast to the right to travel, the right to drive [**For-Hire**] is not a fundamental constitutional right¹ but a **privilege**.² Whenever an individual chooses to drive [**For-Hire**] an automobile in a state, he or she surrenders his or her individual liberties to the extent necessary for compliance with relevant traffic statutes and ordinances that are necessary for the general welfare of the public.³ Revocation of the privilege to operate a motor vehicle on public roadways may properly be based on noncompliance with statutory law, and revocation is not an infringement on the revokee's right to travel.⁴ **16A C.J.S. Constitutional Law § 796 Relating to driving.** When used in its broad sense, the word "taxes" may include a license fee.¹ Such fees may be imposed upon an occupation, business, or calling,² or the exercise of a privilege.³ **51 Am. Jur. 2d Licenses and Permits § 4 License fees as "taxes" May 2021 Update**

One can clearly see **16A C.J.S. Constitutional Law § 796 Relating to driving.** In contrast to the right to travel, the right to drive [**For-Hire**] is not a fundamental constitutional right¹ but a **privilege**.² is closely related to **7A Am. Jur. 2d Automobiles § 13 Am Jur. Vehicles engaged in transportation for hire.** The use of highways for the purpose of transporting persons or property **for hire**, is a **special or permissive use** ² [a **privilege**]. Because both sections § 796 & § 13 are about **a special or permissive use, the privilege to operate for hire**... No other conclusion would be logical as 16A Am. Jur. 2d Constitutional Law § 624. "Rights in public vehicles and places for purposes of liberty interest of Due Process Clause" clearly states: **The right of a citizen to drive on a public street** with freedom from police interference, unless he or she is engaged in suspicious conduct associated in some manner with criminality, **is a fundamental constitutional right**. So, there is a clear distinction between **traveling by car which, is a fundamental constitutional right** and **operating a car for hire** which is a **special or permissive use a privilege**. This is the only way revocation in § 796 is not an infringement on the revokee's right to travel.

To read it any other way would make 16A C.J.S. Constitutional Law § 796 Relating to driving & 16A Am. Jur. 2d Constitutional Law § 624. "Rights in public vehicles and places for purposes of liberty interest of Due Process Clause" **conflict** with each other, which would mean a conflict would exist in the Constitution. .

A conflict between constitutional amendments exists if one provision authorizes what the other forbids, § 796 forbids under the States reading what § 624 authorizes.

When possible, the interpretation of a constitutional provision will be harmonized with other provisions to avoid unreasonable or absurd results.²⁰ Every effort should be made to construe constitutional provisions harmoniously, and no provision should be construed to nullify or impair another.²¹ Apparently conflicting provisions of a constitution²² or ambiguous provisions should, if possible, be construed harmoniously.²³ 16 Am. Jur. 2d Constitutional Law § 66. Reading constitution as a whole; giving effect to every word and part 2021 Update.

Neither should the judiciary indulge in or follow any ingenious refinements or subtlety of reasoning as to the meaning of its provisions.⁷ A court will not construe a constitutional provision to arrive at a strained,⁸ unpractical,⁹ or absurd result.¹⁰ 16 Am. Jur. 2d Constitutional Law § 77. Avoidance of narrow, technical, or absurd construction of constitutional provision 2021 Update.

In other words, the supreme court will consider a constitutional amendment as a whole and, when possible, adopt an interpretation of the language which harmonizes

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different constitutional provisions rather than an interpretation which would create a conflict between such provisions.⁶ 16 Am. Jur. 2d Constitutional Law § 67. Harmonizing constitutional amendments with antecedent constitutional provisions 2021 Update

A conflict between constitutional amendments exists if one provision authorizes what the other forbids or forbids what the other authorizes.¹ Only where an irreconcilable conflict exists between different provisions of the constitution, the office of judicial construction is to determine which will prevail.² Distinct provisions of the constitution are repugnant to each other in such a way as to be irreconcilable only when they are related to the same subject, are adopted for the same purposes, and cannot be enforced without material and substantial conflict.³ If there is a conflict between a general and a special or specific provision in a constitution, the special or specific provision must prevail in respect of its subject matter,⁷ but the general provision will be left to control in cases where the special or specific provision does not apply.⁸ Although the terms of an organic provision will not be strained to imply limitation upon the lawmaking power of the legislature where express and definite limitations are imposed by one section of organic law, amendments of other sections of the constitution will not be construed to remove such fixed limitations further than the terms of the amendment fairly require.⁹ 16 Am. Jur. 2d Constitutional Law § 68. Irreconcilable conflict between separate provisions of constitution 2021 Update.

The constitutional freedom to travel includes the freedom to enter and abide in any state in the Union.¹ However, the means or mode of traveling may be subjected to reasonable regulations.² State law implicates the constitutional right to travel when it actually deters such travel, when impeding travel is its primary objective, or when it uses any classification which it serves to penalize exercise of that right. 8 16A Am. Jur. 2d Constitutional Law § 623. Update 2021.

The right to travel is a fundamental right, reasonable regulations; Is merely safe operation, can't run stop signs, exceed speed limits, or disregard traffic signals; license would deter such travel, & impeded travel cause classification of licensed and unlicensed. Accordingly, restrictions on the right to travel cannot be dismissed by asserting that the right to travel can be fully exercised if the individual first gives up membership in a given association. 16D C.J.S. Constitutional Law § 2125. Due process considerations with respect to right to travel Westlaw. © 2021.

This would include leaving the unlicensed group classification to become licensed. A constitutional provision must never be construed in such a manner as to make it possible for the will of the people to be frustrated or denied.¹² 16 Am. Jur. 2d Constitutional Law § 64. 2021 Update

If a constitutional provision has received a settled judicial interpretation and is incorporated into a new constitution, it will be presumed to have been retained with knowledge of the previous construction and courts will be bound to adhere thereto.² 16 Am. Jur. 2d Constitutional Law § 90 2021 Update.

Sprout v. City of South Bend 198 Ind. 563 (Ind. 1926) Cited 5 times. The question for decision in this case is the validity or invalidity of certain ordinances of the city of South Bend. The statute constituting the city charter authorizes cities "to regulate, tax and license coaches, hacks, drays, automobiles, and all other vehicles," and "to license, tax, and regulate public hackmen, draymen, omnibus drivers, carters, cabmen, porters, expressmen, bill-posters and all other persons pursuing like occupations for pay

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or hire." § 10284, cls. 32, 38 Burns 1926, Acts 1905 p. 219 (252), § 53. And the motor **vehicle** registration act then provided that: "No owner of a motor **vehicle**, except motor trucks and motor driven commercial **vehicles**" should be required to pay any municipal tax or license fee, in addition to the registration fee paid to the secretary of state, with a proviso that nothing in the act should be construed as affecting the power of municipal corporations to make and enforce ordinances, rules and regulations affecting motor trucks and motor driven commercial **vehicles** used within their limits for **public** hire. § 10476d Burns 1914, Acts 1913 p. 779 (789), § 17. Conversely, the failure of the legislature to act cannot take away a right constitutionally granted.⁹ 16 Am. Jur. 2d Constitutional Law § 102. 2021 Update.

The question for decision in this case is the validity or invalidity of A States authority to license the right to travel about by car for day-to-day living? "Those who have the right to do something cannot be licensed for what they already have right to do, as such license would be meaningless." *Crutcher v. Kentucky* 141 U.S. 47 (1891)¹¹ S. Ct. 851 Cited 229 times, *Caldwell v. North Carolina* 187 U.S. 622 (1903) 23 S. Ct. 229, *Adams Express Co. v. New York* 232 U.S. 14 (1914) Cited 77 times, *First Family Mortg. Corp. v. Durham* 528 A.2d 1288 (N.J. 1987) 528 A.2d 1288 Supreme Court of New Jersey, *Dennis v. Higgins* 498 U.S. 439 (1991) 111 S. Ct. 865, *Predka v. Iowa* 186 F.3d 1082 (8th Cir. 1999), *Cash America Net of Nevada v. Commonwealth* 8 A.3d 282 (Pa. 2010) Supreme Court of Pennsylvania, Middle District, *Rivera-Corraliza v. Puig-Morales* 794 F.3d 208 (1st Cir. 2015), In *Crutcher v. Kentucky*, 141 U.S. 47 (1891), in which the Court struck down a **license** requirement imposed on certain out-of-**state** companies, the Court stated: "To carry on interstate commerce is not a franchise or a privilege granted by the **State**; it is a **right** which every citizen of the United **States** is entitled to exercise under the Constitution and laws of the United **States**." Because States cannot license a right.

The vitality of constitutional principles also cannot be allowed to yield simply because of a disagreement with them.⁴ Thus, an effort to accommodate community sentiment or the wishes of the majority of the voters, although usually valid and desirable, cannot justify the abandonment of a constitution or **fundamental constitutional rights**⁵ 16 C.J.S. Constitutional Law § 7. Constitution not subject to suspension, departure, or abandonment.

Statutory law, in order to be valid, must conform to applicable constitutions both federal and state.¹ In other words, constitutional language controls legislative language.² Accordingly, constitutional provisions control in any conflict with lesser laws, such as statutes, local ordinances, administrative regulations,³ and case law.⁴ No statute can, therefore, breathe life into an instrument made and executed in contravention of a constitutional inhibition.⁵ 16 C.J.S. Constitutional Law § 8. Conformance of statutory and common law to constitution.

A state may lawfully exercise its police power to protect the public health, safety, welfare, and morals by promulgating laws and regulations that reasonably regulate occupations.¹ However, an overbroad statute violates substantive due process by depriving a person of a constitutionally protected interest through means which are not rationally related to a valid state objective because it sweeps unnecessarily broadly.² The right of an individual to engage in any of the common occupations of life is among the several fundamental liberties protected by the Due Process and Equal Protection

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Clauses of the 14th Amendment.³ However, neither the federal nor any state constitution secures to any person the liberty to conduct a business so as to injure the public at large or any substantial group.⁴ A statute constitutionally can prohibit an individual from practicing a lawful profession only for reasons related to the individual's fitness or competence to practice that profession. ⁵ Before the police power of the state is used to prohibit the conduct of an individual as unprofessional, offending actions that do not fall clearly within the scope of the proscription must be explicitly defined as wrongful.⁶ 16A Am. Jur. 2d Constitutional Law § 356 Regulation of occupations pursuant to police power, generally. 2021

The right to travel is a part of the liberty of which a person cannot be deprived without due process of law. The right to travel is a fundamental right¹ and a part of the liberty of which a person cannot be deprived without due process of law² and is closely related to the rights of free speech and association.³ It enjoys a unique and protected place in our national heritage⁴ and is an important aspect of a citizen's liberty under the Fifth Amendment⁵ and the Fourteenth Amendment.⁶ Accordingly, restrictions on the right to travel cannot be dismissed by asserting that the right to travel can be fully exercised if the individual first gives up membership in a given association. 16D C.J.S. Constitutional Law § 2125. Due process considerations with respect to right to travel Westlaw. © update 2021 An individual's right to personal liberty is a fundamental right for equal protection purposes.¹ Other recognized fundamental rights, for purposes of equal protection analysis, include the right to vote, the right of interstate travel. 16C C.J.S. Constitutional Law § 1599. Civil or personal rights Westlaw. © 2021. The right of interstate travel is a basic or fundamental right recognized and guaranteed by the Constitution. 16A C.J.S. Constitutional Law § 786 Interstate travel Westlaw. © 2021. The people further have the unalienable right to use the streets and public places. Additionally, the guaranty of the rights and immunities of a citizen insures to him or her the privilege of having those rights and immunities judicially declared and protected. 16A C.J.S. Constitutional Law § 1207. Fourteenth Amendment February 2021.

The State's first significant problem is that the statements relied upon in the cases cited for license & insurance etc. are pure and simple dicta, and, therefore, cannot serve as a source of binding authority as in American jurisprudence. See, e.g., *Alexander v. Sandoval*, 532 U.S. 275, 282, 149 L. Ed. 2d 517, 121 S. Ct. 1511 (2001) ("The Court is bound by holdings, not language."); *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 379, 128 L. Ed. 2d 391, 114 S. Ct. 1673 (1994) ("It is to the holdings of our cases, rather than their dicta, that we must attend . . ."); *United States v. Dixon*, 509 U.S. 688, 706, 125 L. Ed. 2d 556, 113 S. Ct. 2849 (1993) (quoting *United States Nat. Bank of Or. V. Independent Ins. Agents of Am., Inc.*, 508 U.S. 439, 463, n.11, 124 L. Ed. 2d 402, 113 S. Ct. 2173 (1993)),

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The claim of exercising, and passive invocation of a constitutional right cannot be considered a crime. *Id.* at 1351 *Lewis v. State* 288 N.E.2d 138 (Ind. 1972) Cited 127 times In *Lewis v. State*, (1972) 259 Ind. 431, 439, 288 N.E.2d 138, 142, we held that a

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juvenile's statement cannot be used against him at trial unless he and his parents or guardian were informed of his Miranda rights. Constitutional rights "cannot be judged by the exacting standards of maturity, and turned into a crime." The United States Supreme Court in *Haley v. Ohio* (1948), 332 U.S. 596, 68 S.Ct. 302, 92 L.Ed. 224, (Camara v. Municipal Court 387 U.S. at 532–33, 87 S.Ct. 1727). Cited by: 387 U.S. 523 (1967) An occupant can act on the presumption and refuse to consent to entry without having to determine if an exception to the warrant requirement exists. Id. at 1350–51. And passive invocation of this constitutional right cannot be considered a crime. Id. at 1351 (Miranda v. Arizona 384 U.S. 436 86 S. Ct. 1602 (1966) 52,830 Citing Cases Holding that law enforcement officers must warn an individual of certain constitutional rights and the consequences of waiving those rights prior to conducting a custodial interrogation Also Holding that the right to remain silent can be invoked "any time prior to or during questioning.

Constitutional law is that department of the law which treats constitutions and the validity of enactments as tested by the criterion of conformity to fundamental law.¹ It is the field of law dealing with aspects of constitutional provisions, such as restrictions on government powers and guarantees of rights.² It is also the body of law deriving from the U.S. Constitution and dealing primarily with governmental powers, civil rights, and civil liberties.³ In constitutional law, the word "constitution" implies the written instrument agreed upon by the people as the absolute rule of action and decision for all departments and officers of government, in respect to all points covered by it, which must control until it is changed by the authority which established it.⁴ 16 C.J.S. Constitutional Law § 4 . Constitutional law.

The word "constitution" means a declaration of fundamental laws or principles for the government of a nation or state.¹ A constitution is the fundamental law by which all people of the state are governed;² it is the basic charter of state governance.³ A state constitution receives its force from the express will of the people⁴ and is the embodiment of the will of the people⁵ regarding the limits on governmental power.⁶ The legitimacy of any constitution is derived primarily from the consent of those agreeing to be bound by it.⁷ Where a constitution asserts a certain right or lays down a certain principle of law or procedure, it speaks for the entire people as their supreme law.⁸ Whatever the constitution prescribes, the general assembly, and every officer or citizen to whom the mandate is addressed, must do, and whatever it prohibits, the general assembly, and every officer and citizen, must refrain from doing.⁹ The government has broad powers, but the means it uses to achieve its ends must be consistent with the letter and spirit of the constitution.¹⁰ A strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way.¹¹ The powers granted under the Constitution are not infinite; the power the Constitution grants, it also restrains.¹² Although a constitution may be either written (as in the case of the United States) or unwritten (as in the case of Great Britain), the word "constitution," as applied to the organization of our federal and state governments, always implies a written document which is understood to have been enacted by the direct action of the people.¹³ A constitution is a fundamental document, which, in recognizing citizens' rights and establishing government, provides essential checks and balances whose complexity is to be neither undervalued nor disregarded.¹⁴ 16 Am. Jur. 2d Constitutional Law § 1 2021 Update.

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A constitution serves to protect the people against arbitrary power.¹ The basic purposes of a written constitution are to secure to people certain unchangeable rights and remedies and to curtail unrestricted governmental activity within defined fields.² The guarantees provided by the federal and state constitutions apply equally to all and cannot be denied to any one person without weakening the rights of all.³ Indeed, a constitution is not primarily designed to protect majorities who are usually able to protect themselves but to preserve and protect the rights of individuals and minorities against the arbitrary actions of those in authority.⁴ It is thus a function of constitutions to declare and protect fundamental rights.⁵ A constitution is intended to preserve practical and substantial rights, not to maintain theories.⁶ A constitution is, therefore, concerned with practical, substantial rights, not with those that are unclear and gain hold by subtle and involved reasoning.⁷ Constitutional rights cannot be created by statutes or rules,⁸ nor can they be abrogated by executive or judicial action.⁹ Further, the absence of an enabling statute cannot be construed to nullify rights provided by a constitution if those rights are sufficiently specific.¹⁰ 16 C.J.S. Constitutional Law § 6 . Declaration and protection of fundamental rights.

The principal features of the American system of government established by the United States Constitution include representative government,⁹ dual government involving both state and federal aspects,¹⁰ the securing of individual rights^{§ 8}. Purpose, application, and effect of United States..., and privileges through constitutional restrictions,¹¹ and a separation of powers among the legislative, executive, and judicial branches of either government, as well as between the governments themselves.¹² The Constitution of the United States was ordained and established not by the states in their sovereign capacities but, as the Preamble to the Constitution declares, by the people of the United States¹³ and was adopted as their voluntary act for their own protection.¹⁴ It was particularly intended to affect individuals rather than states.¹⁵ citing: 16 Am. Jur. 2d Constitutional Law § 8. 2021 Update

"We the People of the United States were promised a Constitutional Republic, not a democracy. Thus, a republican form of government guaranteed to the states by the United States Constitution,³ cannot be dispensed with or abolished.⁴ 16 Am. Jur. 2d Constitutional Law § 21 Subject matter and permissible scope of amendments to state constitutions—Federal limitations. "We the People of the United States have been deprived of our Constitutional Republic for far too long with an aristocracy of lawyers making bogus excuses to ignore **fundamental constitutional rights protected** by this "Constitution for the United States of America."

"We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defense, promote the general Welfare and secure the **Blessings of Liberty** to ourselves and our Posterity, did ordain and establish this Constitution for the United States of America."³ 16 Am. Jur. 2d Constitutional Law § 10 Adoption of United States Constitution.

In the United States, the Congress and all of its members, as well as the President of the United States,¹¹ all state¹² and federal officials, and all state and federal courts and judges¹³ are as bound by the United States Constitution as are ordinary citizens. 16 Am. Jur. 2d Constitutional Law § 6 2021 Update. This would include Sheriffs and all law enforcement, are bound by the United States Constitution.

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In *Wooley v. Campbell*, 8 Vroom 164, the Supreme Court affirmed the absolute right of the state to dispose of its lands under water as against the common right of fishery in waters covering the land. And if the right of common fishery in all the people, universally exercised from time immemorial, may be taken away by a grant by the state, upon what just principle can the private right of one man or a few men, exercised for a shorter period of time, be upheld against the grant of the state?

If a usage of one man or a few men to the roads and their automobiles to travel in a particular place on a public road is to give him or them a vested right, ought not the same rule to give the whole people in common a vested right to do the same or a similar thing?

Further every public officer has a duty of care held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer to uphold the United States and state Constitution, and Constitutional Law, every public officer's oath creates a legal obligation.

In tort law, a **duty of care** is a legal obligation, which is imposed on an individual requiring adherence to a standard of reasonable care while performing any acts that could foreseeably harm others.

63C Am.Jur.2d, Public Officers and Employees, §247 "As expressed otherwise, the powers delegated to a public officer are held in trust for the people and are to be exercised in behalf of the government or of all citizens who may need the intervention of the officer. *Indiana State Ethics Comm'n v Nelson* (Ind App) 656 NE2d 1172, reh gr (Ind App) 659 NE2d 260, reh den (Jan 24, 1996) and transfer den (May 28, 1996).

Further every public officer who refuses to uphold the United States and state Constitution, and Constitutional Law, Violates 5 U.S.C. § 7311 which explicitly makes it a federal criminal offense (and a violation of oath of office) for anyone employed in the United States, or State Government (including members of Congress) to "advocate the overthrow of our constitutional form of government. "We (judges) & officials have no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given. The one or the other would-be treason to the Constitution." -- *Cohen v. Virginia*, (1821), 6 Wheat. 264 and *U.S. v. Will*, 449 U.S. 200.

An official would also be in violation of 25CFR11.448-ABUSE OF OFFICE, & VIOLATION OF an official's OATH OF OFFICE 18 USC 3571.

When a public officer refuses to uphold the United States and state Constitution, and Constitutional Law, he/she usurps authority which is not given, and It is Treason to the Constitution." -- *Cohen v. Virginia*, (1821), 6 Wheat. 264 and *U.S. v. Will*, 449 U.S. 200.

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